

House Study Bill 592 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL BY
CHAIRPERSON SODERBERG)

A BILL FOR

1 An Act regulating the sale of portable electronics insurance,
2 including by requiring licensure, and providing for fees and
3 penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 522D.1 Definitions.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "*Commissioner*" means the commissioner of insurance.

5 2. "*Customer*" means a person who purchases portable
6 electronics.

7 3. "*Enrolled customer*" means a customer who elects coverage
8 under a portable electronics insurance policy issued to a
9 vendor of portable electronics.

10 4. "*Location*" means any physical location in this state, or
11 any website, call center site, or similar location directed to
12 residents of this state.

13 5. "*Portable electronics*" means electronic devices that are
14 portable in nature, and the accessories and services related to
15 the use of such devices.

16 6. a. "*Portable electronics insurance*" means insurance
17 providing coverage for the repair or replacement of portable
18 electronics which may include coverage against any one or more
19 of the following causes of loss:

20 (1) Property loss.

21 (2) Theft.

22 (3) Inoperability due to mechanical failure.

23 (4) Malfunction.

24 (5) Damage.

25 (6) Other similar causes of loss.

26 b. "*Portable electronics insurance*" does not include any of
27 the following:

28 (1) A service contract or extended warranty providing
29 coverage limited to the repair, replacement, or maintenance
30 of property for the operational or structural failure of the
31 property due to a defect in materials, workmanship, accidental
32 damage from handling power surges, or normal wear and tear.

33 (2) A policy of insurance coverage of a seller's or
34 manufacturer's obligations under a warranty.

35 (3) A homeowner's, renter's, private passenger automobile,

1 commercial multiperil, or similar insurance policy.

2 7. "*Portable electronics transaction*" means any of the
3 following:

4 a. The sale or lease of portable electronics by a vendor to
5 a customer.

6 b. The sale of a service related to the use of portable
7 electronics by a vendor to a customer.

8 8. "*Supervising entity*" means a business entity that is
9 a licensed insurer or an insurance producer licensed under
10 chapter 522B, that is appointed by an insurer to supervise the
11 administration of a portable electronics insurance program.

12 9. "*Vendor*" means a person in the business of engaging in
13 portable electronics transactions, directly or indirectly.

14 Sec. 2. NEW SECTION. 522D.2 **Licensure of vendors.**

15 1. A vendor shall obtain a portable electronics limited
16 lines insurance license as required under this chapter to
17 sell or offer for sale coverage under a policy of portable
18 electronics insurance.

19 2. A portable electronics limited lines insurance license
20 issued to a vendor pursuant to this chapter authorizes any
21 employee or authorized representative of the vendor to sell or
22 offer coverage under a policy of portable electronics insurance
23 to a customer at each location at which the vendor engages in
24 portable electronics transactions.

25 3. A supervising entity shall maintain a registry of vendor
26 locations that are authorized to sell or solicit portable
27 electronics insurance in this state. Upon request by the
28 commissioner and with ten days' notice to the supervising
29 entity, the registry shall be open to inspection and
30 examination by the commissioner during regular business hours
31 of the supervising entity.

32 4. Notwithstanding any other provision of law to the
33 contrary, a portable electronics limited lines insurance
34 license issued pursuant to this chapter authorizes the licensee
35 and its employees or authorized representatives to engage in

1 those activities that are permitted in this chapter.

2 Sec. 3. NEW SECTION. 522D.3 Requirements for sale of
3 portable electronics insurance.

4 1. At every location where portable electronics insurance
5 is offered to customers, brochures or other written materials
6 that do all of the following shall be made available to
7 prospective customers:

8 a. Disclose that portable electronics insurance may provide
9 a duplication of coverage already provided by the customer's
10 homeowner's insurance policy, renter's insurance policy, or
11 other source of insurance coverage.

12 b. State that enrollment by the customer in a portable
13 electronics insurance program is not required in order to
14 purchase or lease portable electronics.

15 c. Summarize the material terms of the portable electronics
16 insurance coverage including all of the following:

17 (1) The identity of the insurer.

18 (2) The identity of the supervising entity.

19 (3) The amount of any applicable deductible and how it is
20 to be paid.

21 (4) Benefits of the coverage.

22 (5) Key terms and conditions of coverage such as whether
23 portable electronics may be repaired or replaced with similar
24 make and model reconditioned or nonoriginal manufacturer parts
25 or equipment.

26 d. Summarize the process for filing a claim, including
27 a description of how to return portable electronics and the
28 maximum fee applicable in the event the customer fails to
29 comply with any equipment return requirements.

30 e. State that an enrolled customer may cancel enrollment for
31 coverage under a portable electronics insurance policy at any
32 time and the person paying the premium shall receive a refund
33 or credit of any applicable unearned premium.

34 2. Portable electronics insurance may be offered on a
35 month-to-month or other periodic basis as a group or master

1 commercial inland marine policy issued to a vendor for its
2 enrolled customers.

3 3. The commissioner of insurance shall establish
4 eligibility and underwriting standards for customers electing
5 to enroll in coverage for each portable electronics insurance
6 program.

7 Sec. 4. NEW SECTION. **522D.4 Authority of vendors.**

8 1. The employees and authorized representatives of a vendor
9 may sell or offer portable electronics insurance to customers
10 and shall not be subject to licensure under this chapter or as
11 an insurance producer under chapter 522B provided that all of
12 the following requirements are met:

13 a. The vendor obtains a portable electronics limited lines
14 insurance license that authorizes the vendor's employees
15 or authorized representatives to sell or offer portable
16 electronics insurance pursuant to this chapter.

17 b. The insurer issuing the portable electronics insurance
18 either directly supervises the administration of the portable
19 electronics insurance program or appoints a supervising entity
20 to supervise the administration of the program, including
21 development of a training program for employees and authorized
22 representatives of the vendor. The training required by this
23 paragraph shall comply with all of the following requirements:

24 (1) The training shall be delivered to employees and
25 authorized representatives of a vendor who are directly engaged
26 in the activity of selling or offering for sale portable
27 electronics insurance.

28 (2) The training may be offered in electronic form.
29 However, if the training is conducted in electronic form, the
30 supervising entity shall implement a supplemental education
31 program for employees and authorized representatives of
32 the vendor regarding the portable electronics insurance
33 product that is conducted and overseen by an employee of the
34 supervising entity who is an insurance producer licensed under
35 chapter 522B.

1 (3) Each employee and authorized representative of a vendor
2 shall receive basic instruction about the portable electronics
3 insurance offered to customers and the disclosures required
4 under section 522D.3.

5 c. An employee or authorized representative of a vendor
6 shall not advertise, represent, or otherwise hold the employee
7 or authorized representative out as being a licensed insurance
8 producer under chapter 522B.

9 2. a. Charges for portable electronics insurance coverage
10 may be billed and collected by the vendor. Any charge to an
11 enrolled customer for coverage that is not included in the cost
12 associated with the purchase or lease of portable electronics
13 shall be separately itemized on the enrolled customer's bill.
14 If the portable electronics insurance is included with the
15 purchase or lease of portable electronics, the vendor shall
16 clearly and conspicuously disclose to the enrolled customer
17 that the portable electronics insurance is included with the
18 portable electronics.

19 b. A vendor that bills and collects charges for portable
20 electronics insurance shall not be required to maintain such
21 funds in a segregated account provided that the vendor is
22 authorized by the insurer to hold such funds in an alternative
23 manner and remits such amounts to the supervising entity within
24 sixty days of receipt.

25 c. All funds received by a vendor from an enrolled customer
26 for the purchase of portable electronics insurance shall be
27 considered funds held in trust by the vendor in a fiduciary
28 capacity for the benefit of the insurer. A vendor may receive
29 compensation for billing and collection services.

30 Sec. 5. NEW SECTION. 522D.5 Penalties — suspension or
31 revocation of license.

32 If a vendor or the vendor's employee or authorized
33 representative violates any provision of this chapter, the
34 commissioner may do any of the following:

35 1. After notice and hearing, impose penalties not to exceed

1 five hundred dollars per violation or five thousand dollars in
2 the aggregate for such violations.

3 2. After notice and hearing, take other affirmative action
4 that the commissioner deems necessary and reasonable to carry
5 out the purposes of this chapter, including the following:

6 a. Suspend the privilege of selling or offering for sale
7 portable electronics insurance pursuant to this chapter at
8 specific business locations where violations of this chapter
9 have occurred.

10 b. Suspend or revoke the ability of an individual employee
11 or authorized representative to sell or offer for sale portable
12 electronics insurance pursuant to the portable electronics
13 limited lines insurance license of a vendor.

14 Sec. 6. NEW SECTION. 522D.6 **Termination of portable**
15 **electronics insurance.**

16 Notwithstanding any other provision of law to the contrary:

17 1. An insurer may terminate or otherwise change the terms
18 and conditions of a policy of portable electronics insurance
19 only upon providing the vendor and enrolled customers with at
20 least thirty days' notice of such termination or change.

21 2. If the insurer changes the terms and conditions of a
22 policy of portable electronics insurance, the insurer shall
23 provide the vendor with a revised policy or endorsement and
24 each enrolled customer with a revised certificate, endorsement,
25 updated brochure, or other evidence indicating that a change in
26 the terms and conditions of the policy has occurred along with
27 a summary of material changes.

28 3. Notwithstanding subsection 1, an insurer may terminate
29 an enrolled customer's enrollment under a portable electronics
30 insurance policy with fifteen days' notice upon discovery of
31 fraud or material misrepresentation in obtaining coverage or in
32 the presentation of a claim under that coverage.

33 4. Notwithstanding subsection 1, an insurer may immediately
34 terminate an enrolled customer's enrollment under a portable
35 electronics insurance policy for any of the following reasons:

1 *a.* Nonpayment of premium.

2 *b.* If the enrolled customer ceases to have active service
3 with the vendor.

4 *c.* If the enrolled customer exhausts the aggregate limit of
5 liability, if any, under the terms of the portable electronics
6 insurance policy and the insurer sends notice of termination to
7 the enrolled customer within thirty days after exhaustion of
8 the limit. However, if notice is not timely sent, enrollment
9 shall continue notwithstanding the aggregate limit of liability
10 until the insurer sends notice of termination to the enrolled
11 customer.

12 5. If a portable electronics insurance policy is terminated
13 by a vendor, the vendor shall mail or deliver written notice
14 to each enrolled customer advising the enrolled customer
15 of the termination of the policy and the effective date of
16 termination. The written notice shall be mailed or delivered
17 to the enrolled customer at least thirty days prior to the
18 termination.

19 6. *a.* Whenever notice or correspondence with respect to a
20 policy of portable electronics insurance is required pursuant
21 to this section or is otherwise required by law, the notice
22 or correspondence shall be in writing and sent within the
23 notice period, if any, specified in the statute or regulation
24 requiring the notice or correspondence.

25 *b.* Notwithstanding any other provision of law to the
26 contrary, notices and correspondence may be sent by mail or by
27 electronic means as set forth in this paragraph "b".

28 (1) If the notice or correspondence is sent by mail, it
29 shall be sent to the vendor at the vendor's mailing address
30 specified for such purpose and to the affected enrolled
31 customers at their last known mailing addresses on file with
32 the insurer. The insurer or vendor, as the case may be, shall
33 maintain proof of mailing in a form authorized or accepted
34 by the United States postal service or other commercial mail
35 delivery service.

1 (2) If the notice or correspondence is sent by electronic
2 means, it shall be sent to the vendor at the vendor's
3 electronic mail address specified for such purpose and to the
4 affected enrolled customers at their last known electronic mail
5 address as provided by each enrolled customer to the insurer or
6 vendor, as the case may be. For purposes of this subparagraph,
7 an enrolled customer's provision of an electronic mail address
8 to an insurer or vendor shall be deemed consent to receive
9 notices and correspondence by electronic means. The insurer or
10 vendor, as the case may be, shall maintain proof that a notice
11 or correspondence was sent by electronic means to an enrolled
12 customer.

13 7. Notice or correspondence required by this section or
14 otherwise required by law may be sent on behalf of an insurer
15 or vendor, as the case may be, by the supervising entity
16 appointed by the insurer.

17 **Sec. 7. NEW SECTION. 522D.7 Application for license —**
18 **fees.**

19 1. If a vendor is selling or offering to sell or will
20 sell or offer to sell portable electronics insurance in this
21 state, the vendor shall submit a sworn application for a
22 portable electronics limited lines insurance license to the
23 commissioner on an application form prescribed and furnished by
24 the commissioner.

25 2. The application form shall include the following
26 information:

27 a. The name, residence address, and other information
28 required by the commissioner for an employee or officer of
29 the vendor that is designated by the vendor as the person
30 responsible for or who will be responsible for the vendor's
31 compliance with the requirements of this chapter. However, if
32 the vendor derives more than fifty percent of its revenue from
33 the sale of portable electronics insurance, the information
34 required in this paragraph shall be provided for all officers,
35 directors, and shareholders of record of the vendor that have

1 beneficial ownership in the vendor of ten percent or more of
2 any class of securities registered under federal securities
3 law.

4 b. Provide the location of the vendor's home office.

5 3. Any vendor engaging in the sale of or offering for sale
6 portable electronics insurance on or before July 1, 2012,
7 shall apply for licensure under this chapter within ninety
8 days of the application form being made available by the
9 commissioner. Any vendor commencing operations in this state
10 after July 1, 2012, shall obtain a portable electronics limited
11 lines insurance license prior to selling or offering for sale
12 portable electronics insurance.

13 4. Initial portable electronics limited lines insurance
14 licenses issued pursuant to this chapter shall be valid for a
15 period of twenty-four months and shall expire on March of the
16 renewal year assigned by the commissioner.

17 5. Each vendor licensed under this chapter shall pay to the
18 commissioner a fee as prescribed by the commissioner by rule,
19 but in no event shall the fee exceed one thousand dollars for
20 an initial portable electronics limited lines insurance license
21 or five hundred dollars for each renewal of the license.
22 However, for a vendor that engages in portable electronics
23 transactions at ten or fewer locations in the state, the fee
24 shall not exceed one hundred dollars for an initial license and
25 one hundred dollars for each renewal of the license.

26 Sec. 8. NEW SECTION. 522D.8 Rules.

27 The commissioner shall adopt rules pursuant to chapter 17A
28 as necessary to implement and administer the provisions of this
29 chapter.

30 EXPLANATION

31 This bill regulates the sale of portable electronics
32 insurance by requiring licensure, and providing for fees and
33 penalties. "Portable electronics" are electronic devices
34 that are portable in nature, and the accessories and services
35 related to the use of such devices.

1 "Portable electronics insurance" is insurance that provides
2 coverage for the repair or replacement of portable electronics
3 including various causes of loss. "Portable electronics
4 insurance" does not include a service contract or extended
5 warranty, a seller's or manufacturer's warranty obligations,
6 or other insurance such as homeowner's, renter's, automobile,
7 or commercial multiperil insurance. Vendors of portable
8 electronics sell or offer for sale such insurance pursuant
9 to a policy issued to the vendor by an insurer that offers
10 such coverage. The bill applies to vendors that have physical
11 locations in the state, as well as any website, call center
12 site, or similar location directed to residents of this state.

13 Vendors are required to obtain a portable electronics
14 limited lines insurance license as required under new Code
15 chapter 522D to sell or offer for sale coverage under a
16 portable electronics insurance policy. Such a license
17 issued to a vendor authorizes any employee or authorized
18 representative of the vendor to sell or offer the insurance
19 coverage at each location in the state where the vendor
20 sells portable electronics. A "supervising entity" that is
21 a licensed insurer or licensed insurance producer under Code
22 chapter 522B must maintain a registry of vendor locations at
23 which portable electronics insurance is sold or solicited that
24 is available for inspection by the commissioner of insurance.

25 Vendors that sell portable electronics insurance are
26 required to offer written materials to customers that disclose
27 certain specified information about the insurance that is being
28 offered. Such insurance may be offered on a month-to-month or
29 other periodic basis. Eligibility and underwriting standards
30 must be established for each portable electronics insurance
31 program by the commissioner of insurance.

32 Employees and authorized representatives of a vendor may
33 sell or offer portable electronics insurance to customers
34 and are not subject to licensure under new Code chapter
35 522D or Code chapter 522B if certain training and oversight

1 requirements are met by the insurer and the supervising entity
2 appointed by the insurer.

3 A vendor may bill and collect charges for portable
4 electronics insurance and be paid for doing so but is
5 considered to hold any funds collected in trust for the
6 insurer.

7 The commissioner of insurance may subject a vendor or the
8 vendor's employees or authorized representatives to penalties
9 for violations of the Code chapter not to exceed \$500 per
10 violation or \$5,000 in the aggregate. The commissioner may
11 also suspend the vendor's privilege of selling the insurance
12 at specific locations of the vendor or suspend or revoke
13 the selling privileges of a specific employee or authorized
14 representative of a vendor.

15 An insurer cannot terminate or otherwise change the terms of
16 a portable electronics insurance policy without giving notice
17 to the vendor and enrolled customers as provided in the bill.
18 Notice may be sent in writing by mail or by electronic means.

19 A vendor who is selling or offering to sell or will sell
20 or offer to sell portable electronics insurance in this state
21 must submit a sworn application for a portable electronics
22 limited lines insurance license to the commissioner. A vendor
23 who is engaging in the sale of such insurance on or before the
24 effective date of the bill must apply for a license within
25 90 days of the date the application form is made available
26 by the commissioner of insurance. Any vendor that commences
27 operations in the state after the effective date of the bill
28 must obtain a license prior to selling or offering for sale
29 portable electronics insurance.

30 Portable electronics limited lines insurance licenses shall
31 be valid for 24 months and shall not exceed \$1,000 for an
32 initial license or \$500 for a renewal of the license, except
33 that if a vendor has 10 or fewer locations in the state, the
34 license cost shall not exceed \$100 for an initial license and
35 for each renewal of the license.

H.F. _____

1 The commissioner of insurance is required to adopt rules
2 pursuant to Code chapter 17A to implement and administer the
3 provisions of the bill.